



**Transportation  
Security  
Administration**

**OFFICE OF TRAINING AND DEVELOPMENT**

**TSA MANAGEMENT DIRECTIVE No. 1900.15  
USE OF LICENSED AND COPYRIGHTED MATERIAL**

*To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.*

1. **PURPOSE:** This directive provides TSA policy and procedures on the restrictions and permitted uses of licensed and copyrighted materials. It also defines the procedures to be used by TSA personnel to ensure licensed and copyrighted materials are used in accordance with the law. Furthermore, it distinguishes between the fair use of copyrighted materials and plagiarism.
2. **SCOPE:** This directive applies to all TSA personnel and contractors who are involved in creating, using, and disseminating training and educational materials in furtherance of the TSA mission.
3. **AUTHORITIES:**
  - A. 17 U.S.C., Chapter 1, *Subject Matter and Scope of Copyright*
  - B. 28 U.S.C., §1498(b), *Patent and Copyright Cases*
4. **DEFINITIONS:**
  - A. Copyright: A property right granted by Federal law (17 U.S.C. § 106-106A) to an author that allows him or her to protect an original work. With some exceptions, the owner of the copyright has the exclusive right to reproduce, perform, display, and distribute the copyrighted material. Wrongful use of the copyrighted property gives the owner the right to seek and recover monetary damages from the unauthorized user in a court of law. Government personnel are not exempt from complying with this law.
  - B. Copyright Term: For a particular work, a period of time that depends on several factors, including whether it has been published, and, if so, the date of first publication. As a general rule, for works created after January 1, 1978, copyright protection lasts for the life of the author plus an additional 70 years. For an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of 95 years from the year of its first publication or a term of 120 years from the year of its creation, whichever expires first. For works first published prior to 1978, the term will vary depending on several factors. To determine the length of copyright protection for a particular work, consult Chapter 3 of the Copyright Act (17 U.S.C.).
  - C. Exceptions: For purposes of this MD situations that allow someone other than the copyright owner to lawfully reproduce copyrighted material. Those situations include: When the material is public domain, the copyright owner grants permission for use of material (license); there is a legal exception for the use; or the use of material constitutes a “fair use.”
  - D. Fair Use Doctrine: Provides limitations on exclusive rights to copyrighted material, per 17 U.S.C. § 107. It allows someone other than the copyright owner to use copyrighted material without an express license and may be an affirmative defense to allegations of copyright infringement.

- E. License: For purposes of this MD, a permission or contract which identifies the terms under which one can use copyrighted work (e.g., one can use a purchased stock image, audio file, or template to develop training, but not for any other purpose).
- F. Plagiarism: The presentation of distinctive words or ideas of another as one's own without crediting the source; a form of deception and theft. It may, or may not, violate the owner's copyright interest; however, it is an ethical violation in itself, and may result in adverse personnel action(s).
- G. Public Domain: The public domain is not a place. A work of authorship is in the "public domain" if it is no longer under copyright protection or if it failed to meet the requirements for copyright protection. Works in the public domain may be used freely without the permission of the former copyright owner.
- H. Works (Materials) Protected: Copyright law covers eight broad categories of creative works to include: (1) literature (i.e., fiction and non-fiction writings contained in any format, internet postings, and electronic documents); (2) music; (3) drama; (4) choreography; (5) pictures, graphics and sculptures; (6) motion pictures and audiovisual presentations; (7) sound recordings; and (8) architectural works.

## **5. RESPONSIBILITIES:**

- A. The Assistant Administrator for the Office of Training and Development (OTD), or designated subordinate, is responsible for establishing policy for the use of licensed and copyrighted material in educational and training content.
- B. All Assistant Administrators and Directors are responsible for ensuring compliance with this directive within their organizational elements.
- C. The Office of Chief Counsel is responsible for:
  - (1) Providing guidance relating to the fair use exception; and
  - (2) Providing guidance when the purpose of the use of copyrighted materials is external (i.e., outside of the agency).
- D. Supervisors are responsible for approving their employee's *Request for a License to Use Copyrighted Materials*, prior to submission of the request to the copyright owner.
- E. TSA employees and contractors, who are involved in creating, using and disseminating training and education materials, are responsible for:
  - (1) Ensuring the use of copyrighted materials falls within the fair use doctrine;
  - (2) Seeking and securing a license from the copyright owner for copyrighted educational materials that fall outside the scope of the fair use doctrine;

- (3) Securing approval from their respective Business Management Office to obligate government funds in situations where the copyright owner requests payment; and
- (4) Including proper citations, to the original source of the copied material, when reproducing copyrighted materials.

## **6. POLICY:**

- A. Any individual within TSA who wishes to use copyrighted materials for educational purposes that are beyond the types of uses permitted under the fair use doctrine must seek a license from the copyright owner.
- B. All employees must seek a license from the copyright owner or seek further guidance from the TSA Office of Chief Counsel (TSA/OCC) when there is any doubt about using the fair use exception.

Note: This Management Directive (MD) is not intended to provide a legal determination regarding fair use of copyrighted material by TSA. Proper application of the doctrine requires a thorough analysis of the facts and careful application of the law.

- C. The use of copyrighted work by TSA must be for internal, intra-agency purposes only. If at any point, the purpose or use of copyrighted material becomes external (i.e., outside of the agency), counsel from the TSA Office of Chief Counsel (TSA/OCC) shall be sought on the matter. Send inquiries to [CopyrightOCC@tsa.dhs.gov](mailto:CopyrightOCC@tsa.dhs.gov).
- D. All TSA personnel and contractors who are involved in creating, using, or disseminating training and educational materials must file a copy of purchased license(s) at [OTDITLogistics@tsa.dhs.gov](mailto:OTDITLogistics@tsa.dhs.gov) to ensure that all training is developed in accordance with the terms of service specified therein.

## **7. PROCEDURES:**

- A. Fair Use: In determining whether the use of copyrighted material falls within the fair use doctrine, four factors must be considered. These factors are the guidelines which courts may adopt when considering whether use of material constitutes an infringement on copyright. If you have questions about applying the fair use doctrine, send inquiries to [CopyrightOCC@tsa.dhs.gov](mailto:CopyrightOCC@tsa.dhs.gov). The four factors to be considered are:
  - (1) The Transformative Factor, Purpose and Character of Use: This factor considers whether the copied work has been transformed to result in something with new utility or meaning. When using copyrighted materials, the original work must not be copied verbatim, but rather used in conjunction with TSA's own expression, meaning, information, and insight. Furthermore, this factor considers the purpose of the use of copyrighted materials. Non-commercial, educational uses, such as to promote the mission of TSA through instructional means, are favored over commercial uses.
  - (2) The Nature of the Copyrighted Material: This factor considers the dissemination of information to the public. Copyrighted material with factual knowledge already available to the public is more likely to fall within the fair use doctrine, as opposed to copyrighted

material which may not be factual or already available to the general public. The nature of the work should involve factual, technical, scientific, professional, analytical, and/or statistical information.

- (3) The Amount and Substantiality of the Material Taken: Use of copyrighted material should be as minimal as possible. The amount of copyrighted material used will be the minimum amount necessary to convey an important teaching point. The material used must not capture the “heart” of the copyrighted material.
  - (4) The Effect of the Use on the Market or Value of the Material: This factor considers how the use of copyrighted material may have potential impacts on the market value of that material. Use of copyrighted material that results in adverse effects on the market value of that material will fall outside the scope of the fair use doctrine. TSA will ensure that the use of copyrighted material does not adversely infringe upon the market value of the material, including use for non-profit and educational purposes. For additional information on Fair Use, see [Attachment D, Copyrighted Material Use Guide](#).
- B. Government Copying: TSA can be held liable for violation of the copyright laws. Congress expressly codified that works protected by the copyright laws can be infringed by the United States (28 U.S.C. § 1498(b)). TSA’s use of copyrighted materials is subject to the fair use doctrine; however, government use does not automatically or invariably constitute a fair use of the material. Any photocopying or other forms of reproduction of copyrighted material that is not a fair use would be an infringing use and may result in TSA being held liable to the copyright owner for monetary damages.
- C. Legislative Guidance on the fair use of Copyrighted Materials: The legislative history of 17 U.S.C. § 107 provides guidance and specific examples where uses of copyrighted material by educators fell under the fair use doctrine. Excerpts from H.R. Rep. No. 94-1476, 94<sup>th</sup> Cong., 2nd Session (1976), reprinted in 17 U.S.C.A. § 107 are provided in [Attachment C, Legislative Guidance on the Fair Use of Copyrighted Materials](#).
- D. Obtaining a License to Use Copyrighted Material:
- (1) A TSA employee wishing to use copyrighted material beyond what is permitted under the fair use doctrine must seek a license from the copyright owner. The owner may grant all, some, or no permission for the requested use.
  - (2) TSA employees must keep in mind that while many copyright owners will grant a license for government or school use without charge, some owners may request compensation. If the owner requests compensation, the TSA employee must first obtain approval to obligate government funds. Employees involved in the creation, use, and/or dissemination of educational materials do not have legal authority to obligate government funds in purchasing a license to use copyrighted materials.
- E. Before requesting a license to use copyrighted materials, individuals must secure supervisor approval. Upon supervisory approval, individuals must use the format found in [Attachment A, Sample Request For a License to Use Copyrighted Materials](#) to make a request to license copyrighted materials. In addition, they must:

- (1) Always obtain a license to use copyrighted material in writing;
  - (2) Request the minimum quantity of material actually needed;
  - (3) Fully and accurately identify the material sought to be used, identify the purpose for the use, and identify the duration of use;
  - (4) Draft the request so the owner only has to sign a prepared statement to grant a license; and
  - (5) Enclose a self-addressed, return envelope for easy return.
- F. If the copyright owner requests payment, the TSA employee must obtain approval to obligate government funds from authorized individuals within their respective Business Management Office.
- G. Upon receipt of a written and signed [Copyright Release](#) from the copyright owner, the TSA employee may use the materials specified in the release for the duration and purpose specified.
- H. A scanned copy of the written and signed license from the copyright owner must be stored electronically, along with the course files for which the release applies, so it is readily available to demonstrate proof of permission.
- I. Distinguishing Between Authorized Use and Plagiarism:
- (1) Copyright laws ensure that only the proper owner of a work can benefit from its use. The focus of copyright law is to protect property interest in created materials. In contrast, the focus of safeguarding against plagiarism is to ensure accurate credit or attribution to the original author of the work or idea.
  - (2) When reproducing copyrighted material, proper citation must always be made to the original source of the copied material. While copyright infringement may be avoided by obtaining the copyright owner's consent or by complying with the fair use doctrine, plagiarism is only avoided by properly citing the source of the copied material. Failing to properly cite the original source of the material will be deemed plagiarism. Plagiarism is an ethical violation, and may result in adverse personnel action(s).

8. **APPROVAL AND EFFECTIVE DATE:** This policy is approved and effective the date of signature unless otherwise specified.

**APPROVAL**

*Signed*

April 3, 2017

\_\_\_\_\_  
Kimberly Hutchinson  
Acting Assistant Administrator  
Office of Training and Development

\_\_\_\_\_  
Date

**EFFECTIVE**

\_\_\_\_\_  
Date

Distribution: TSA Assistant Administrators, Office Directors, Business Management Officers  
Point-of-Contact: Office of Training and Development, Standards and Integration Office,  
Learning Solutions Branch, OTD\_LearningSolutions@tsa.dhs.gov

ATTACHMENT A

SAMPLE REQUEST FOR A LICENSE TO USE COPYRIGHTED MATERIALS

[Use TSA Letterhead]

Copyright Owner  
Any Street  
Any City, USA 11111

Dear Copyright Owner:

I am an employee of the Transportation Security Administration (TSA), which is owned and operated by the United States Government. TSA develops and conducts basic, intermediate, and advanced technical and leadership training for its employees, as well as for law enforcement personnel employed by Federal, state and local agencies. TSA provides this training in furtherance of its national security mission and students attend free of charge.

I am requesting your permission to use the following materials in a TSA training course from \_\_\_\_\_ to \_\_\_\_\_ [course dates], entitled: \_\_\_\_\_.

[Describe materials here.]

The materials will only be used in this course of instruction and will likely be distributed via handout to approximately \_\_\_\_\_ students. I propose to use these materials for \_\_\_\_\_ [duration of use]. Any written form of the materials will prominently display your copyright notice and a recitation that you have granted a license for this use.

Please complete, sign, and date the acknowledgement on the next page and return it to me in the enclosed self-addressed envelope. On behalf of TSA and the employees who will benefit from your materials, thank you for your generosity.

Name  
Title

Attachment: Copyright Owner's Release

1<sup>st</sup> Endorsement  
TSA Letter, dated \_\_\_\_\_ [Date]

ATTACHMENT B

COPYRIGHT OWNER'S RELEASE

I, \_\_\_\_\_, hereby give the TSA a license to use, royalty-free, the following copyrighted materials which I own:

[Describe materials to be used here]

The materials so released may only be used in connection with the course described on the attached letter and for the duration indicated therein. The Transportation Security Administration will not charge any student for the use of these materials, nor make any profit at all from their use.

I understand that notice of my copyright interest will be included in all written forms of this material, along with a notice that I have granted a license for this use.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Printed Name:

Address:

Telephone Number:



## ATTACHMENT C

### LEGISLATIVE GUIDANCE ON THE FAIR USE OF COPYRIGHTED MATERIALS

Excerpts from H.R. Rep. No. 94-1476, 94<sup>th</sup> Cong., 2nd Session (1976), reprinted in 17 U.S.C.A. § 107, *Historical and Statutory Notes*:

- A. Personal Research: You may make a single copy of a chapter of a book or a complete article from a newspaper/magazine for personal use in research or preparation for teaching.
- B. Outlines and Handouts: You may generally include copyrighted material in class outlines and handouts under the fair use doctrine (i.e., without a license) as follows:
- (1) Complete articles or stories of less than 2,500 words;
  - (2) Excerpts from longer articles, when the material taken is not more than 1,000 words or greater than 10 percent of a work, whichever is less; however, a minimum of 500 words may always be used;
  - (3) One cartoon, graph, chart, or illustration per book or periodical issue.
- C. Multiple Copies: When multiple copies are prepared for classroom use:
- (1) You may only make one copy per student;
  - (2) You must include a notice of the copyright (e.g., “Copyright 1992, Houghton Mifflin Company”);
  - (3) You may only copy the material for one course in the school;
  - (4) You may only copy one short poem, article, story, essay, or two excerpts from the same author, or three from the same collective work or periodical volume during one class term (note this limitation does not apply to current news periodicals and newspapers);
  - (5) You may only have nine instances of such multiple copying for one course during one class term;
  - (6) You may not copy in order to create, replace, or substitute for anthologies, compilations, or collective works;
  - (7) You may not copy from works that are intended to be consumable in the course of study or teaching (e.g., workbooks, exercise sheets, test booklets, etc.).
- D. The copying of materials under the fair use doctrine shall not:
- (1) Substitute for the purchase of textbooks, publishers’ reprints, or periodicals;
  - (2) Be directed by higher authority; or

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- (3) Be repeated with respect to the same item by the same teacher from term to term. If you intend to use the copyrighted material in subsequent terms or courses, seek a license from the copyright owner.
- E. Educators may show copyrighted movies and/or television clips in a classroom (or similar setting), if the presentation falls within the fair use doctrine. This allows instructors in nonprofit institutions to show audiovisual material over the course of face-to-face instruction, provided the copy was lawfully made.
- F. Distributing copyrighted material outside of the educational environment does not constitute fair use unless it is done as part of the instructional mission. Audiovisual clips must not be distributed outside of the classroom setting without a license from the copyright owner.

## ATTACHMENT D

### COPYRIGHTED MATERIALS USE GUIDE

Copyright is a federal property right conferred on the author of a material which gives them the exclusive right to use, display, distribute, perform, and/or reproduce the protected material.

**Assume all materials are copyrighted materials.**

While accurate attribution may not avoid copyright infringement, it will avoid plagiarism, which is an ethical violation. Plagiarism is passing off the work of another as one's own due to lack of or inadequate attribution to the author of the original.

1. DO NOT:
  - a. Copy written materials verbatim.
  - b. Use the entirety of a material (e.g. A video of an entire speech, OR a video of an entire speech chopped up into segments.).
  - c. Extract and reproduce the essence of the material (e.g. the most iconic scene in a movie.).
2. DO:
  - a. Transform the material from its original form in conjunction with TSA's interpretation, information, and insight.
    - i. If using an image, combine the image with other TSA-produced information.
  - b. Use the absolute minimum from the copyrighted material.
  - c. Look for:
    - i. Licensing and/or copyright terms on websites for guidance. Links to the terms are typically located at the bottom of a web page. The links are often labeled "Copyright," "Usage Policy," or "Licensing."
    - ii. License request forms or messaging features on the particular website (YouTube, blogs, etc.) to conveniently reach out to the content-creator for permission.
    - iii. Watermarks or logos on photos and videos. These marks often indicate that the material has already been licensed by a third party.
    - iv. On YouTube videos, check the license type in the description box of the video. "Standard YouTube License" versus "Creative Commons Attribution License (reuse allowed)."
3. The safest materials to reuse include:
  - a. Federal publications.
  - b. Involve factual, statistical, scientific information.
  - c. Contain information which is already available to the general public.
4. When possible, obtain from the owner a license to use the copyrighted material:
  - a. Obtain supervisor's approval.
  - b. Use the *Request For A License To Use Copyrighted Materials* and *Copyright Owner's Release* (Attachments [A](#) and [B](#)).

- i. Written request for copyright release for the minimum quantity of material needed, fully, and accurately identifying the material needed, and the purpose and duration of its use.
  - c. If the copyright owner requests payment to authorize the use of their material, obtain permission to obligate government funds through the Business Management Office (BMO).
5. Creative Commons License:
- a. Copyright owners may grant others permission to use their originally created content through Creative Commons.
  - b. The use of the materials must:
    - i. Attribute explicitly the original source of the material.
    - ii. Not be for commercial purposes.
    - iii. No alteration, editing, remixing, cutting, shortening, or addition of content to the original material.